

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 559 of 2006****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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NATWARLAL CHUNILAL & SONS - Petitioner(s)
Versus
DISTRICT SUPPLY OFFICER & 3 - Respondent(s)

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Appearance :

MR ANSHIN H DESAI for Petitioner(s) : 1,
Mr. HM Prachhak, AGP for Respondent(s) : 1 - 3.
MR MA BUKHARI for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**Date : 08/02/2006****ORAL JUDGMENT**

Rule. By way of this petition under Article 226 of the Constitution of India the petitioner has prayed for an appropriate writ, order or direction quashing and setting aside the

order passed by the Mamlatdar, Bharuch, dated 12th January 2006 in rejecting the application of the petitioner for renewal of licence to run the Petrol Pump which was granted under the provisions of Gujarat Essential Articles (Licensing, Control and Stock Declaration) Order, 1981.

2. It is the case on behalf of the petitioner that the land in question upon which the petitioner is having the petrol pump/petrol outlet is leased to the petitioner since 1962; the licence which was issued by the Mamlatdar, Bharuch was to expire on 31.12.2005; and therefore the petitioner submitted an application for renewal of the said licence by application dated 18.11.2005. It is the case on behalf of the petitioner that the petitioner was informed by communication dated 20th December 2005 by the D.S.O., to produce proof extending the licence and/or authorisation by IBP Company and also

proof with regard to the land. It is the case on behalf of the petitioner by communication dated 3.1.2006 the petitioner replied to the same. It is also the case on behalf of the petitioner that inspite of the fact that the petitioner produced relevant documents and proof with regard to possession of the land in question, without giving opportunity to the petitioner, the Mamlatdar, Bharuch passed the impugned order dated 12th January 2006. There are certain allegations made against the respondent No.2 with regard to malafides that the impugned decision has been taken at the instance of the respondent No.4 and with a view to help the respondent No.4 Administrator of Roman Catholic Church as there was civil dispute pending between the petitioner and respondent No.4, and the impugned order came to be passed.

2. Shri HM Prachhak, learned AGP has submitted that as certain documents and the proof

with regard to continuation of the authorization by IBP Company were not produced the decision was taken, and the respondents No. 1 to 3 are not interested in the civil dispute between the petitioner and the respondent No.4. He has also submitted that subsequently the petitioner had produced the authorization from the IBP Company and/or proof of renewal of IBP Dealership and some other requirements such as production of explosive licence are still not met with, and on satisfying the authority with regard to the same without entering into the land dispute between the petitioner and the respondent No.4, an independent appropriate decision will be taken reconsidering their earlier decision.

2.1. At this stage, Shri Mihir Joshi, learned Senior Advocate has submitted that in fact the Affidavit-in-Reply itself confirms the stand of the petitioner that the impugned decision has been taken considering irrelevant aspect like

dispute between the petitioner and the respondent No.4. In view of the statement made by Shri Prachhak, this Court does not wish to go into the merits of the said allegation and/or not expressing any opinion with regard to the same. Under the circumstances, considering the aforesaid statement of learned A.G.P., following order is passed;

(1) The impugned order dated 12th January 2006 passed by the Mamlatdar, Bharuch is hereby quashed and set aside. The Mamlatdar, Bharuch is directed to reconsider his decision and/or pass an appropriate order in accordance with law and on merits after considering the documents already produced and if he need some other documents the petitioner be given an opportunity to produce the same and after complying with all other requirements. If the Mamlatdar wants production of some other documents, he may call upon the petitioner to produce the same within the period

of two weeks from today and if those documents are not on record it will be open for the petitioner to produce the same at the earliest or submit before the Mamlatdar, Bharuch that those documents are already on record. Until then the parties are directed to maintain status-quo.

(2) The Mamlatdar, Bharuch is directed to pass appropriate order in accordance with law and on merits on the renewal application within the period of four weeks from the date of receipt documents if they are needed as stated above.

4. Rule is made absolute, however, there will be no order as to costs. It is, however, made clear that this Court has not expressed any opinion with regard to the dispute between the petitioner and the respondent No.4 and/or about the title of the land in question.

Rmr .

[M.R. Shah J.]